

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**MERIDIAN CITIZENS MUTUAL  
INSURANCE COMPANY,**

**Plaintiff,**

**V.**

**MICHAEL W. BROWN, DALE BROADWAY,  
and CARMEN BROADWAY,**

**Defendants.**

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**) No. 3:09-cv-516-JPG-DGW**

## MEMORANDUM AND ORDER

This cause comes to be heard before the Court on Plaintiff Meridian Citizens Mutual Insurance Company's Renewed Motion for Entry of Default Judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure against Defendants, Michael W. Brown, Dale Broadway and Carmen Broadway (Doc. 24). No notice was required as no defendant has appeared.

On July 10, 2009, Meridian issued waiver of service of summons letters to all of the Defendants. On August 6, 2009, Meridian filed an executed waiver of service for Michael W. Brown. Pursuant to Federal Rule of Civil Procedure 4(d)(3), Brown was obligated to appear no later than September 8, 2009. To date, no appearance or answer has been filed on behalf of Brown. Under Rule 55(a), the Clerk entered the Default of Brown on October 2, 2009.

Carmen Broadway and Dale Broadway were served on October 5, 2009 by the Sheriff of White County. Pursuant to Rule 4 of the Federal Rules of Civil Procedure, they had 20 days from the date of service, October 5, 2009, in which to serve and file a responsive pleading to the Plaintiff's Complaint for Declaratory Judgment. To date, no appearance or answer has been filed on behalf of Carmen Broadway or Dale Broadway. Under Rule 55(a), the Clerk entered the Default

of Carmen Broadway and Dale Broadway on November 17, 2009.

As all parties have been defaulted pursuant to Rule 55(a) and there is no need for further proceedings to enter default judgment pursuant to Rule 55(b), the Court **GRANTS** the motion for default judgment (Doc. 24), **FINDS** that Michael W. Brown breached the notice condition of the Meridian Citizens Mutual Insurance Company policy numbered FO4464131, issued to M&H Grain Farms, Inc. as named insured, as notice of the occurrence more than 2 years after it occurred is not as soon as practicable or reasonable under the circumstances and is a material and substantial breach of the notice condition, and **DIRECTS** the Clerk of Court to enter default judgment against defendants Michael W. Brown, Dale Broadway and Carmen Broadway declaring:

- Plaintiff Meridian Citizens Mutual Insurance Company has no duty or obligation under Meridian Citizens Mutual Insurance Company policy numbered FO4464131 to defend defendant Michael W. Brown in Cause No. 09 L 11 brought in the Circuit Court of the 2nd Judicial Circuit, White County, Illinois.

and awarding costs of this litigation to plaintiff Meridian Citizens Mutual Insurance Company .

**IT IS SO ORDERED.**

**DATED: December 7, 2009**

s/ J. Phil Gilbert  
**DISTRICT JUDGE**